

Effective Date
January 15, 2005

NEBRASKA HEALTH AND HUMAN SERVICE
REGULATION AND LICENSURE

172 NAC 162

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 162 PRACTICE OF RESPIRATORY CARE

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 162 PRACTICE OF RESPIRATORY CARE

162-001 SCOPE AND AUTHORITY: These regulations are intended to implement the laws governing the practice of Respiratory Care and set forth the procedures for licensure pursuant to Neb. Rev. Stat. §§ 71-1227 to 71-1236 and the Uniform Licensing Law.

162-002 DEFINITIONS

Act means Neb.Rev.Stat. §§ 71-1227 to 71-2136, known as the Practice of Respiratory Care.

Approved Training Program means a respiratory therapy education program which is accredited by the Committee on Accreditation for Respiratory Care in collaboration with the Commission on Accreditation of Allied Health Education Programs.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Respiratory Care Practice.

Completed Application means an application with all the information requested on the application filled in, fees and all required documentation submitted.

Continuing Education means the offering of instruction or information to license holders for the purpose of maintaining skills necessary to the safe and competent practice of respiratory care. Continuing education may be offered under such names as "scientific school", "clinic", "forum", "lecture", "course of study", or "educational seminar".

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Inactive License means the voluntary termination of the right or privilege to practice respiratory care. The license holder retains the right or privilege to represent himself/herself as having an inactive license.

Lapsed License means the voluntary termination of the right or privilege to represent himself/herself as a licensed person and to practice respiratory care.

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Licensure Examination means the National Board for Respiratory Care Certified Respiratory Therapy Technician (CRTT) Examination approved by the Department on the recommendation of the Board.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 162.

Official means issued by and under the original seal of the issuing agency.

Provider means an individual or sponsoring organization that presents continuing education programs to license holders and requests approval from the Board of those programs.

Respiratory Care means the health specialty responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care will not be limited to a hospital setting and will include the therapeutic and diagnostic use of medical gases, administering apparatus, humidification and aerosols, ventilatory assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, and maintenance of nasal or oral endotracheal tubes. It will also include the administration of aerosol and inhalant medications to the cardiorespiratory system and specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques will include, but not be limited to, measurement of ventilatory volumes, pressures, and flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic and other related physiological monitoring of the cardiopulmonary system.

Respiratory Care Practitioner means:

1. Any person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care to patients of all ages with varied cardiopulmonary diseases and to patients in need of critical care and who is capable of serving as a resource to the physician and other health professionals in relation to the technical aspects of respiratory care including effective and safe methods for administering respiratory care; and
2. A person capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

Scaled score means a qualitative interpretive score which is a function of performance.

Verified means sworn to before a Notary Public.

162-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person who wishes to practice respiratory care after January 1, 1987 must obtain a license. The criteria for issuance of licenses and the documentation required by the Department and the Board are set forth below.

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162-003.01 License Based on Examination: An applicant for a license to practice respiratory

care issued on the basis of an examination must meet the applicable requirements described below.

162-003.01A Examination Taken on or Before July 17, 1986: An applicant for a license to practice respiratory care issued on the basis of an examination taken on or before July 17, 1986, must:

1. Have passed the licensure examination with a minimum score of 75 on a scaled score ranging from 1 to 99; or
2. Have passed the Registered Respiratory Therapist Examination administered by the National Board for Respiratory Care;
3. Have attained at least the age of majority and have good moral character; and
4. Submit to the Department:
 - a. Documentation of passing the licensure examination. Such documentation must be by proof of certification by the National Board for Respiratory Care, Inc.; or
 - b. Documentation of passing the Registered Respiratory Therapist Examination administered by the National Board for Respiratory Care. Such documentation must be by proof of certification by the National Board for Respiratory Care, Inc.;
 - c. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated in these regulations. Only applications which are complete will be considered;
 - d. Evidence of having attained at least the age of majority; and
 - e. The required license fee.
 - f. Attestation by the applicant:
 - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (2) To the actual number of days practiced in Nebraska prior to the application for a license.
5. The Department will act within 150 days upon all completed applications for licensure.

6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
7. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty pursuant to 172 NAC 162-014, or such other action as provided in the statutes and regulations governing the license.

162-003.01B Examination Taken After July 17, 1986: An applicant for a license to practice respiratory care on the basis of an examination taken after July 17, 1986, who is not currently a respiratory care practitioner, must:

1. Have completed an approved training program;
2. Have passed the licensure examination with a minimum score of 75 on a scaled score ranging from 1 to 99;
3. Have attained at least the age of majority and have good moral character; and
4. Submit to the Department:
 - a. An official transcript showing completion of an approved training program;
 - b. Official documentation of passing the licensure examination and the score achieved on the examination;
 - c. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated in these regulations. Only applications which are complete will be considered;
 - d. Evidence of having attained at least the age of majority; and
 - e. The required license fee.
 - f. Attestation by the applicant:
 - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (2) To the actual number of days practiced in Nebraska prior to the application for a license.

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5. The Department will act within 150 days upon all completed applications for licensure.
6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
7. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty pursuant to 172 NAC 162-014, or such other action as provided in the statutes and regulations governing the license.

162-003.02 License Based on a License Issued in Another Jurisdiction: An applicant for a license to practice respiratory care on the basis of licensure in another jurisdiction must:

1. Provide documentation that the standards regulating the practice of respiratory care in the other jurisdiction are equal to those maintained in Nebraska;
2. Provide documentation that his/her license was based on a written examination, the grades given at the examination, and the date the license was issued;
3. Provide documentation of being actively engaged in the practice of respiratory care or in an accepted residency or graduate program for at least one of the three years immediately preceding application;
4. Provide documentation of being in active and continuous practice of respiratory care for at least one year under license issued by examination in the state, territory, or District of Columbia from which s/he comes;
5. Have attained the age of majority and have good moral character; and
6. Submit to the Department:
 - a. A complete application on a form provided by the Department, a copy of which is attached as Attachment A, and incorporated in these regulations. Only applications which are complete will be considered;
 - b. Evidence of having attained at least the age of majority;
 - c. The required licensure fee;
 - d. Attestation by the applicant:
 - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (2) To the actual number of days practiced in Nebraska prior to the application for a license; and

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7. Have the licensing or certifying agency submit to the Department:
 - a. A certification that the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement on a form provided by the Department, a copy of which is attached as Attachment A-3, and incorporated into these regulations.
 - b. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
 - c. The date of the applicant's license or certificate;
 - d. The name of the examination on which licensure was based;
 - e. The score attained on the examination; and
 - f. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.
8. The Board reviews the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon standards regulating the profession which are equal to those maintained in respiratory care by Nebraska.
9. The Department will act within 150 days upon all completed applications for licenses.
10. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
11. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty pursuant to 172 NAC 162-014, or such other action as provided in the statutes and regulations governing the license.

162-004 RESERVED

162-005 EXAMINATION ELIGIBILITY: An applicant is eligible to take the licensure examination if s/he meets the educational requirements pursuant to 172 NAC 162-003.01B.

162-006 EXEMPTION FROM LICENSURE: A registered polysomnographic technologist may perform oxygen therapy or the initiation of noninvasive positive pressure ventilation relating to the study of sleep disorders, without obtaining a respiratory care license. Such procedures may

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only be performed or initiated under the supervision of a licensed physician at a facility accredited by the American Academy of Sleep Medicine. A registered polysomnographic technologist means a person who is registered by the Board of Registered Polysomnographic

Technologists, certified by the National Commission of Certifying Agencies.

162-007 RENEWAL REQUIREMENTS: All licenses issued by the Department under this Act and these regulations will expire on June 1 of each even-numbered year.

162-007.01 Renewal Process. Any licensee who wishes to renew his/her license must:

1. Meet continuing competency requirements pursuant to 172 NAC 162-012;
2. Pay the renewal fee as pursuant to 172 NAC 162-013;
3. Respond to the following questions:
 - a. Has your license in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or a felony?

These questions related to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the expiration date.

4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee; and
 - c. Attestation of completing 20 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency requirements. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on

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probation.

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162-007.02 First Notice: At least 30 days before June 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each

licensee's last known address as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

162-007.02A The renewal notice will specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as pursuant to 172 NAC 162-013;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

162-007.02B The licensee will apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's Social Security Number;
4. Attestation of completing 20 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency requirements; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

162-007.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

162-007.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive or lapsed status.

162-007.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to 172 NAC 162-007.02 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 162-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with additional late fee of \$25, and documentation of continuing competency requirements within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee and documentation of continuing competency requirements, the license will be revoked pursuant to 172 NAC 162-008.

162-007.04 The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional fee of \$25;
3. The licensee's Social Security Number.
4. Attestation by the licensee:
 - (a) That s/he has not practiced in Nebraska since the expiration of his/her license ; or
 - (b) To the actual number of days practiced in Nebraska since the expiration of his/her license.
5. Attestation of completing 20 hours of continuing education earned within 24 months of the date of expiration or waiver of continuing competency requirements; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

162-007.05 If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

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162-007.06 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

162-007.07 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency requirements and/or to pay an additional fee of \$25, the Department will automatically revoke the license without further notice of hearing and will make proper record of the revocation.

162-007.08 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of licensure, unless a waiver of continuing competency requirements is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and/or to pay an additional late fee of \$25, the Department will revoke the license after notice and opportunity for hearing. Hearings held before the Department will be pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

162-007.09 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 162-007.07 and 007.08 will not apply.

162-007.10 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, the Rules of Practice and Procedure for the Department.

162-007.11 An individual who practices after expiration of his/her license, is subject to assessment of an administrative penalty pursuant to 172 NAC 162-014, or such other action as provided in the statutes and regulations governing the credential.

162-008 REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license to practice respiratory care when the licensee fails to meet the renewal requirements.

162-008.01 Revocation for Non-Payment of Renewal Fee

162-008.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing competency requirements and/or an additional fee of \$25 and fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.

162-008.01A1 The revocation notice must specify:

1. That the licensee was given a first and final notice of renewal requirements and the respective dates for these notices;

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2. That the licensee failed to renew the license or to have the license timely placed on inactive or lapsed status;
3. That the Department has revoked the license;
4. That the licensee has a right to appeal the revocation; and
5. That the licensee has a right to reinstatement of the license.

162-008.02 Revocation for Failure to Meet Continuing Competency Requirements:

162-008.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal or to request that his/her license be placed on either inactive or lapsed status, the Department will revoke his/her license after notice and opportunity for a hearing.

162-008.02A1 The notice of revocation for failure to meet continuing competency requirements must specify that:

1. Licensee was given first and second notice of failure to meet the continuing competency requirements and the respective dates of each notice;
2. Licensee either failed to renew the license or to have his/her license timely placed on inactive or lapsed status;
3. The Department will revoke the license within 30 days of date of receipt of the notice unless the licensee requests in writing a hearing.
4. The licensee has a right to appeal the revocation; and
5. The licensee has a right to reinstatement of the license.

162-009 RESERVED

162-010 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF OR DISCIPLINE A LICENSE:

162-010.01 The Department may deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 162-003.

162-010.02 The Department may refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 162-007.

162-010.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

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1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license.
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state.
3. Habitual intoxication or dependence or failure to comply with a treatment program

or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01.

4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or license holder's fitness or capacity to practice the profession.
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or with gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so.
9. Having had his/her license denied, refused renewal, limited, suspended, or revoked or having had the license disciplined in any other manner pursuant to Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice respiratory care based upon acts by the applicant or license holder pursuant to 172 NAC 162-010. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence.

10. Unprofessional conduct which terms include all acts pursuant to Neb. Rev. Stat. §71-148 and the other acts which include but are not limited to:
 - a. Competence A respiratory care practitioner must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of respiratory care includes but is not limited to:
 - (1) Committing any act which endangers patient safety or welfare;
 - (2) Encouraging or promoting respiratory care by untrained or unqualified persons; or
 - (3) Failure or departure from the standards of acceptable and prevailing practice in respiratory care.
 - b. Confidentiality: A respiratory care practitioner must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so constitutes unprofessional conduct.
 - c. Professional Relationships: A respiratory care practitioner must safeguard the welfare of patients and maintain appropriate professional relationships with patients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - (1) Improper use of another person for one's own advantage;
 - (2) Failure to decline to carry out respiratory care services that have been requested when the services are known to be contraindicated or unjustified;
 - (3) Failure to decline to carry out procedures that have been requested when such services are known to be outside of the respiratory care practitioner's scope of practice;
 - (4) Verbally or physically abusing patients;
 - (5) Falsification or unauthorized destruction of patient records;
 - (6) Attempting to provide diagnostic or treatment information to patient(s) that is beyond the respiratory care practitioner's level of training and expertise.

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- (7) Delegating to other personnel those patient related services when the clinical skills and expertise of a respiratory care practitioner is required; and
 - (8) Failure to conform to the ethics of the profession as specified in the American Association for respiratory care's "Code of Ethics".
- d. Sexual Harassment: A respiratory care practitioner must not under any circumstances engage in sexual harassment of patients or co-workers.
 - (1) Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
 - (a) The provision or denial of respiratory care to a patient;
 - (b) The provision or denial of employment or employment advances to a co-worker;
 - (c) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover; or
 - (d) For the purpose or effect of creating an intimidating, hostile, or offensive working environment or unreasonably interfering with the co-worker's ability to perform his/her work.
- e. Obtaining any fee for professional services by fraud, deceit, or misrepresentation.
- f. Violating an assurance of compliance entered into under Neb. Rev. Stat. § 71-171.02.
- g. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care.
- h. Failure to safeguard the patient's dignity and right to privacy.
- i. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional; and

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- j. Practicing respiratory care in this state without a current Nebraska license.
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning the license holder's professional excellence or abilities, in advertisements.
 12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
 13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.
 14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations.
 15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the license holder is not licensed or certified to practice.
 16. Practicing the profession of respiratory care while his/her license is suspended or in contravention of any limitation placed upon his/her license.
 17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or license holder unqualified to practice his/her profession or occupation.
 18. Refusal to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 through 71-161.16 to determine his/her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed.
 19. Failure to file a report required by Neb. Rev. Stat. §71-168.

162-010.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend a license other than for non-payment of the renewal fee, the applicant or licensee will be given an opportunity for a hearing before the Department and will have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

162-011 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

162-011.01 Eligibility:

162-011.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, pursuant to these regulations.

162-011.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

162-011.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 162-014, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

162-011.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 162-003.

162-011.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 162-014;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

162-011.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status; or
3. Restore the credential to active status and impose limitation(s) or other

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sanctions on the credential.

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162-011.02C The Department will act within 150 days on all completed applications.

162-011.02D The applicant will be provided with notice and the opportunity for hearing pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 162-011.02A and 162-011.02B are final.

162-011.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

162-011.04 Procedures for Moving from Inactive to Active Status: To move a credential from

inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security Number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;

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- [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the applicant.
- f. Attestation that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and any other applicable fees.
- 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

162-011.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 162-014;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

162-011.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from inactive to active status; or
- 3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

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162-011.04C In either event pursuant to 172 NAC 162-011.04A or 162-011.04B, a notice and the opportunity for hearing will be given to the applicant.

162-011.04D The Department will act within 150 days on all completed applications.

162-011.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

162-011.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - (a) Name;
 - (b) Address;
 - (c) Social Security Number; and
 - (d) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (e) A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing

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probationary conditions and current status, if the applicant is currently on probation.

- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;

- [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

- (3) Disciplinary charges pending against any professional credential held by the applicant.

- (f) Attestation that the continuing competency requirements for renewal have been met;

2. The renewal fee, the late fee of \$35 and any other applicable fees.

3. Attestation by the applicant:

- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

- b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

- (1) If an applicant has practiced after his/her credential was revoked
Department may assess an administrative penalty pursuant to NAC 162-014 in which case a notice and opportunity for
be sent to the applicant.

- (2) If an applicant has practiced after his/her credential was revoked,

or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 162-011.06B.

the
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hearing will

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

162-011.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

162-011.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential: An administrative penalty may be assessed pursuant to 172 NAC 162-014 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:

- a. Reinstate the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An administrative penalty may be assessed pursuant to 172 NAC 162-014 if warranted; or
- b. Deny reinstatement: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

162-011.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in

Nebraska since s/he last held an active credential.

162-011.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements. An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential

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was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.

- c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
 - (6) Attestation that the continuing competency requirements for renewal have been met.
- 2. The renewal fee, the late fee of \$75 and any other applicable fees.
- 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

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- b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 162-014 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 162-011.11A2 and 162-011.11A3.

162-011.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

162-011.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

162-011.08C If the Board recommends reinstatement of the credential, no public hearing will be held on the petition.

162-011.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.

162-011.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

162-011.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

162-011.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which the recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

162-011.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the

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credential.

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2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent material and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

162-011.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

162-011.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

162-011.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

162-011.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

162-011.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons. An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.

2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

162-011.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.

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- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (6) Any continuing competency activities.
- 2. The reinstatement fee of \$75.
- 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 162-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 162-011.10F.

162-011.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

- 1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
- 2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
- 3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
- 4. Require the petitioner to complete additional education.

162-011.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

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162-011.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

162-011.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

162-011.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.

162-011.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

162-011.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

162-011.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

162-011.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

162-011.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential pursuant to the Board's

recommendation for reinstatement.

3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any Finding of Fact or Order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent material and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The Order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

162-011.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and

- (2) Signed statement that the petitioner requests the Director to issue the credential pursuant to the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent material and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The Order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

162-011.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster

County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

162-011.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

162-011.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the

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162-011.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security Number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - f. Any continuing competency activities.
 - g. Attest:

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- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
- (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

162-011.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 162-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other

sanctions on the credential.

162-011.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other

sanctions on the credential.

162-011.11A4 In either event pursuant to 172 NAC 162-011.11A2 or 162-011.11A3, a notice and the opportunity for hearing will be given to the applicant.

162-011.11A5 The Department will act within 150 days on all completed applications.

162-011.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

162-011.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

162-011.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 162-014.

162-011.13 Credentials Voluntarily Surrendered or Limited Permanently

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162-011.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 may not be restored.

162-012 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSURE

162-012.01 General Requirements for Licensure: On or before June 1, of each even numbered year, each respiratory care practitioner who is in active practice and in the State

of Nebraska must:

1. Complete 20 hours of continuing education during the preceding 24 month period to renew a license.
2. Be responsible for:
 - a. Maintaining until the next renewal period, documentation of attendance at, or participation in, continuing education programs/activities. Documentation of attendance or participation must include the following:
 - (1) Signed certificate; and
 - (2) Course brochure or course outline.
 - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program. Documentation must include the following:
 - (1) Course outline; and
 - (2) Brochure of course; or
 - (3) Statement of instructor's qualification to teach the course, unless the qualifications are included in the brochure.
3. If applicable, submit an application for waiver of the continuing competency requirements pursuant to 172 NAC 162-012.02.

162-012.01A Acceptable Continuing Education: In order for a learning experience to be accepted for renewal or reinstatement of a license, the learning experience must relate to the theory or clinical application of theory pertaining to the practice of respiratory care and it may focus on research, treatment, documentation, management, or education.

162-012.01B The Board does not pre-approve continuing education programs but will accept as continuing education for renewal of a license or reinstatement of a license the following learning experiences to include:

1. Programs at State and National association meetings which relate to the theory or clinical application of theory pertaining to the practice of respiratory care;

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2. Formal education courses/presentations in which:
 - a. The courses or presentations are formally organized and planned instructional experiences that have a date, location, course title, number of contact hours, signed certificate of attendance, and are open to all licensees;
 - b. The objectives relate to the theory or clinical application of theory pertaining to the practice of respiratory care; and
 - c. The instructor has specialized experience or training to meet the objectives of the course.
3. University or college sponsored courses relating to the theory or clinical application of theory pertaining to the practice of respiratory care. A licensee must provide documentation of successfully completing the course. A licensee's documentation must include an official transcript, and a program outline and/or objectives;
4. Home study where the content of the home study activity relates to the theory or clinical application of theory pertaining to the practice of respiratory care whether the subject is research, treatment, documentation, education, or management, e.g. videotapes, internet courses, and/or correspondence courses. The program must have a testing mechanism scored by the named study provider. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives;
5. Management courses which relate to the theory or clinical application of theory pertaining to the practice of respiratory care. A respiratory care practitioner may complete a maximum of four hours of continuing education utilizing management courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;
6. Nationally recognized specialty certification examinations re: Certified Pulmonary Function Technologist (CPFT), Registered Polysomnographic Technologist (RPFT), Neonatal Pediatric Specialist (NPS), Registered Pulmonary Function Technologist (RPGST): A licensee will earn 10 contact hours of continuing education each 24 month renewal period for successful completion of a nationally recognized specialty certification examination related to an area of specialty practice in the field of respiratory care. A licensee's documentation must include a copy of the certification.
7. Basic cardiac life support or advanced cardiac life support for adults and pediatric or neonatal courses.
 - a. Maximum of one hour credit for the Basic Cardiac Life Support course during each 24 month renewal period;

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- b. Maximum of 12 hours credit for initial ACLS certification course or six hours credit for re-certification during each 24-month renewal period; and
- c. Maximum of 8 hours credit for initial Neonatal Advanced Life Support certification course or four hours credit for recertification during each 24 month renewal period.
- d. Maximum of 12 hours credit for Pediatric Advanced Life Support certification course or six hours credit for recertification during each 24 month renewal period.

162-012.01C One hour credit will be awarded for each hour of attendance. Credit will not be awarded for breaks, lunch, or dinner.

162-012.01D One hour credit will be awarded for each hour of scientific presentation by a licensee acting as an essayist or lecturer to licensed respiratory care practitioners if the program relates to the theory or clinical application of theory pertaining to respiratory care. A licensee may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education for presentations in a 24 month renewal period.

162-012.01E Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs that do not relate to the theory or clinical application of theory pertaining to the practice of respiratory care including but not limited to:

- 1. Business communications and operations.
- 2. Medical terminology and language courses.
- 3. Courses which deal with personal self-improvement, financial gain, or career options.
- 4. Courses designed for lay persons.
- 5. Teaching unlicensed or uncertified persons, conducting research, or publications, nor any preparation for same.
- 6. Courses less than 60 minutes in duration.
- 7. Respiratory care on-the-job training.
- 8. Respiratory care orientation programs or staff meetings, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.
- 9. Presentation made by students.
- 10. Participation in or attendance at case conferences, grand rounds, or informal presentations.

162-012.02 Waiver of Continuing Competency Requirements: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in part or in total, for any two year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented completion of such requirements.

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162-012.02A Such circumstances must include situations in which:

1. The licensee holds a Nebraska license but is not practicing his/her profession in Nebraska;
2. The licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date;
3. The licensee has submitted proof that s/he was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months preceding the license renewal date;
4. The licensee was first licensed within the 24 months immediately preceding the license renewal date;
5. The licensee successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to respiratory care; and
6. Other circumstances beyond the licensee's control prevented completion of the continuing competency requirements.

162-012.02B Application for Waiver of Continuing Competency Requirements: Any licensee who seeks a waiver of continuing competency requirements, in part or in total, for any two year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any two year period. The licensee must submit:

1. A complete application for waiver of continuing competency requirements on a form provided by the Department and referred to as Attachment M or at the option of the applicant, s/he may apply by using an alternate format which s/he prefers. Only applications which are complete will be considered, and the application must be received by the Department on or before June 1 of the year the license is subject to renewal; and
2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements pursuant to 172 NAC 162-010.02A must include the following:
 - a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must mark the appropriate response in the waiver section of Attachment D.

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- b. If the licensee has served in the regular armed forces of the United States during part of the 24 month immediately preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment D and submit official documentation stating the dates of such service.
- c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency requirements during the 24 months preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment D and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to obtain continuing competency requirements during that period.
- d. If the licensee was first licensed within 24 months immediately preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment M and list the date said license was issued.
- e. If the licensee successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to respiratory care, s/he must mark the appropriate response in the waiver section of Attachment D and submit official documentation showing completion of such hours.
- f. If the licensee has other circumstances beyond his/her control that prevented him/her from obtaining the required continuing competency requirements, s/he must mark the appropriate response in the waiver section of Attachment D and submit documentation verifying such circumstances.

162-012.02C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of such requirements.

162-012.02C1 When the Department determines to deny an application for waiver of continuing competency requirements, it must send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

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162-012.02C1a The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal must be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, The Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

162-012.02C1b The Department will issue at the conclusion of the appeal pursuant to 184 NAC 1, a final order setting forth the results of the appeal.

162-012.02C2 When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.

162-012.03 Audit of Continuing Competency Requirements: The Board will select, either during or after renewal, in a random manner, a sample of the licensee's renewal applications

for audit of continuing competency requirements. Each licensee will be responsible for maintaining in his/her own personal files such certificates or records of credit from continuing education activities received from continuing education providers. Licensees selected for audit will be required to produce documentation of his/her attendance at those continuing education activities including program outline and/or course objectives attested to on his/her renewal application.

162-012.03A The Department will send to each licensee selected a notice of audit.

162-012.03B When selected for audit, the licensee will provide satisfactory documentation of attendance at or participation in continuing education activities and the program outline and/or objectives listed on the licensee's affidavit as pursuant to 172 NAC 162-012.01 item 2.

162-012.03C The Board reserves the right to audit the continuing education affidavit of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing, documents verifying attendance at continuing education activities.

162-012.03D Continuing education for which no documentation is produced will not be included in the calculation of the total number of continuing education hours.

162-012.03E Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

162-013 SCHEDULE OF FEES: The following fees have been set by the Department:

1. Initial License Fee: By an applicant for a license to practice respiratory care, the fee of \$50 and the Licensee Assistance Program fee of \$1 per year for each year remaining during the current biennial renewal period.

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2. Proration of Initial License Fee: For issuance of a credential that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.
3. License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice respiratory care, the fee of \$40 and the Licensee Assistance Program fee of \$2.
4. Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.
5. Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late charge, in addition to the renewal fee.
6. Certification of License Fee: For issuance of a certification of a license the fee of \$25. The certification includes information regarding:
 - a. The basis on which a license was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the license; and
 - d. The current status of the license.
7. Verification of License Fee: For issuance of a verification of a license the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.
8. Duplicate License Fee: For a duplicate original license document or reissued license, the fee of \$10.
9. Administrative Fee: For a denied license or withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the license fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.
10. Reinstatement Late Fee: For reinstatement for a license for failure to meet renewal requirements:
 - a. Within one year, the fee of \$35 in addition to the renewal fee.
 - b. After one year of revocation, the fee of \$75 in addition to the renewal fee
11. Reinstatement Fee: For reinstatement of a respiratory care license following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

162-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license

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for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

162.014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

162-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

162.014.03 Administrative Hearing: When a person contests the administrative penalty and

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requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Approved by Attorney General: December 13, 2004
Approved by Governor: January 10, 2005
Filed with Secretary of State: January 10, 2005
Effective Date: January 15, 2005

Forms A through L may be obtained by contacting the Credentialing Division.

Nebraska Department of Health and Human Services
Regulation and Licensure
Credentialing Division
PO Box 94986
Lincoln NE 68509-4986

(402)471-2299

<http://www.hhs.state.ne.us/crl/profindex1.htm>

State of Nebraska
Department of Health and Human Services
Regulation and Licensure, Credentialing Division
P.O. Box 94986
Lincoln, NE 68509-4986

APPLICATION FOR LICENSURE
Board of Respiratory Care Practice

SECTION A - PERSONAL INFORMATION (All applicants must complete this section.)

1. Name: _____ / _____
(Last) (First) (Middle/Maiden)

2. Date of Birth: _____ 3. Age: _____
(Attach proof of age of majority: i.e., verified copy of birth or marriage certificate or driver's license.) Verified means sworn to before a Notary Public.

4. Place of Birth: _____
(City/County) (State)

5. Mailing Address: _____
(Street/P.O. Box/Route)

(City) (State/County) (Zip Code)

6. SSN # _____ OPTIONAL: Telephone: (____) _____
Area Code

Determine the month and year in which you are submitting your application. Pay the amount in the corresponding box.

Year	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec
Eve n	\$26	\$26	\$26	\$26	\$26	\$52	\$52	\$52	\$52	\$52	\$52	\$52
Odd	\$52	\$52	\$52	\$52	\$52	\$51	\$51	\$51	\$51	\$51	\$51	\$26

** If the license fee at the time the application is final is different from the fee at the time the application is submitted, the difference will be requested or refunded.

7. Moral Character: Have you ever been convicted of a misdemeanor or felony?

Yes_____No _____ If yes, state what crime, date of conviction, name, and location of court:

If you answered Yes to the above, you must request the following documents be sent directly to this office:

- Official court records, which includes charges and disposition
- If the conviction involved a drug and/or alcohol related offense, all addiction/mental health evaluations and proof of treatment (if treatment was obtained and/or required)
- If you are currently on probation, a letter from your probation officer addressing probationary conditions and your current status

8. Are you or have you been licensed or certified in another state? Yes_____ No_____ If yes, list state(s) and license/certifications numbers: _____

If you answered Yes to the above, you must request the following documents be sent directly to this office:

- If your license in health care in another state has been revoked, suspended, limited or discipline in any way, an official copy of the disciplinary action, including charges and disposition

9. Is any disciplinary action pending or ever been taken against your license/certificate?

Yes_____ No_____ If yes, state date and type of action; name and address of entity taking such action: _____

SECTION B - LICENSE APPLICATION CATEGORY (All applicants must complete this section)

- () By Examination after July 17, 1986
- () By Examination on or prior to July 17, 1986
- () By Licensure in Another Jurisdiction (state)

Have you taken the National Board for Respiratory Care CRTT Examination? Yes_____ No_____
If yes, list date(s)_____

Have you passed the CRTT examination? Yes_____No_____ If yes, proceed as directed in Section C below.

SECTION C - EDUCATION

Complete this section if you have passed, or will take, the licensure examination after July 17, 1986.

Submit an **official transcript** for proof of completion of an approved respiratory care program. A transcript is considered official when it is issued by the institution where the training program was completed and affixed with its seal.

APPROVED RESPIRATORY CARE PROGRAM	_____ Name and Location
	_____ Date Completed

SECTION D - EXAMINATION - PROVIDE THE DEPARTMENT WITH THE FOLLOWING:

1. If you have taken the CRTT or RRT examination on or before July 17, 1986, you must submit a letter verifying certification sent to this office by National Board for Respiratory Care (NBRC).
2. If you have taken the CRTT examination after July 17, 1986, submit a notarized copy of your score report from NBRC or a letter from NBRC stating that you have passed the certification examination. This letter must be sent by NBRC to the address on the first page of this application.

SECTION E - LICENSE ISSUED ON BASIS OF A LICENSE IN ANOTHER JURISDICTION.

(State) (If you hold a license to practice respiratory care in another jurisdiction, complete this section and have the licensing agency complete the Certification of Applicant's License in Respiratory Care - Attachment A-3.)

1. Name of Agency Issuing License: _____
Address: _____
(Street/P.O. Box) (City) (State) (Zip Code)

2. Date Issued: _____

3. Name of Written Examination: _____

4A. Have you been in the active and continuous practice of respiratory care under such license or in an accepted residency or graduate program for one year of the three years immediately preceding the date of application for Nebraska license? Yes_____ No_____

- 4A1. If in an accepted residency or graduate program, provide the name of the facility or graduate program, address, and dates actively engaged in the practice of respiratory care. (Continue on reverse side or use an additional sheet if space is inadequate.)

Facility	Address	Dates
_____	_____	_____

- 4A2. Give location, address, and dates actively engaged in practice of respiratory care.
(Continue on reverse side or use an additional sheet if space is inadequate.)

Facility	Address	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

- 4B. Have you been in active and continuous practice of respiratory care under license by examination in the state, territory, or District of Columbia from which you come for at least one year following the issuance of such license?

- 4B1. Give location, address, and dates actively engaged in practice of respiratory care.
(Continue on reverse side or use an additional sheet if space is inadequate.)

Facility	Address	Dates
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Have you requested to have certification of your respiratory care practitioner license sent to Nebraska by submitting to the appropriate licensing agency the Certification of Applicant's License In Respiratory Care "Attachment A-3"?
Yes _____ No _____

SECTION F – CERTIFYING INFORMATION (All applicants must complete Section F.)

I hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character.

Signature of Applicant:: _____ Date: _____

**APPLICATION FOR WAIVER OF CONTINUING COMPETENCY REQUIREMENTS – RESPIRATORY
CARE
ATTACHMENT M**

State of Nebraska _____)
County of _____)ss

WAIVER OF CONTINUING COMPETENCY REQUIREMENTS: If you have not completed the required continuing competency requirements and wish to apply for a waiver, please complete the following information:

___ I AM REQUESTING A WAIVER of ___ continuing education hours.

Check applicable reason(s) for waiver below:

- ☐ I hold a Nebraska license but have not engaged in the practice of respiratory care for the twenty-four (24) months preceding renewal.
- ☐ I have served in the regular armed forces of the United States during part of the twenty-four (24) months immediately preceding the licensure renewal date. (Attach official documentation stating dates of service)
- ☐ I was first licensed within the twenty-four (24) months immediately preceding the license renewal date.
Date of issuance of license: _____
- ☐ I have suffered a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four (24) months immediately preceding the license renewal date. (Attach a statement from treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to attend continuing education programs during that period.)
- ☐ Other, please explain:

I, _____ (name of licensee), depose and say that I am the person named making application and that I have completed this application; and that the information I have provided is true and correct to the best of my knowledge and belief.

Signature of Licensee

Date